REMARKS

Claim Rejections

Claims 1, 10 and 11 are rejected under 35 U.S.C. § 112, second paragraph. Claims 1-8 and 11-16 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Lobo et al. (U.S. 5,835,616) in view of Giacchetti (U.S. 2003/0065589). Claims 9-10 and 17-18 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Lobo et al. in view of Tian et al. (U.S. 2003/0133599).

Submission of Priority Document

Pursuant to the provisions of 35 U.S.C. § 119 and 37 C.F.R. § 1.55, Applicant claims the right of priority based upon Taiwan, R.O.C. Application No. 091124925, filed October 25, 2002. A certified copy of Applicant's priority document, along with a Claim to Priority, is submitted herewith. Acknowledgment of the receipt of this document is respectfully requested.

Drawings

It is noted that no Patent Drawing Review (Form PTO-948) was received with the outstanding Office Action. Thus, Applicant must assume that the drawings are acceptable as filed.

New Claims

By this Amendment, Applicant has amended claims 1-18 of this application. It is believed that the amended claims specifically set forth each element of Applicant's invention in full compliance with 35 U.S.C. § 112, and define subject matter that is patentably distinguishable over the cited prior art, taken individually or in combination.

In the present invention, the face-adjusting template includes a database having a plurality of face adjusting templates, each of the plurality of face adjusting templates includes face adjusting parameters. The face adjusting templates include the parameterized processing procedure, which is also included in the database.

Since each of the plurality of face adjusting templates are stored in the database, they are selectable either manually or automatically for reuse.

The primary reference to Lobo et al. teaches face detection using templates for finding a digitized human face.

On page 4-5 of the outstanding Office Action, the Examiner admits that Lobo et al. do not teach "a manual adjusting unit, which is used for adjusting the facial characteristics of the facial image manually and may record a parameterized processing procedure and used as a template, moreover, the new template is stored in the face-adjusting template database."

Lobo et al. do not teach the original face image obtained by the image-reading unit is selectively adjusted one of the template selection unit and the manual adjusting unit.

The secondary reference to Giacchetti teaches body image templates with pre-applied beauty products. Giacchetti states, page 4, paragraph 0055:

> The method may also involve enabling an individual to select at least one of a plurality of external body conditions and enabling simulation of the selected external body conditions on the simulated facial image. FIG. 2B shows an exemplary user interface having a movable control element U.92 capable of being moved to cause increasing or decreasing appearance of wrinkles or any other skin conditions, for example, in the simulated facial image U.40. FIG. 2C shows an exemplary user interface wherein templates in the form of representations of external body conditions (e.g., wrinkles U.95, U.96, U.97, U.98 of varying appearance) are capable of being selected to cause the external body condition of a selected template to appear on the simulated facial image U.40. When the simulated facial image U.40 is constructed using facial portion templates as shown in the example of FIG. 2A, one of more of the facial portion templates could be displayed along with an overlay of a body condition corresponding to a selected body condition template.

Giacchetti applies the templates to only a portion of a simulated facial image, whereas the present invention applies the templates adjust a real human facial image obtained by the image reading unit.

Giacchetti does not teach an image-reading unit reading an original facial image; a feature detection unit recognizing and positioning facial characteristics of the original facial image; a template selection unit; a manual adjusting unit adjusting the facial characteristic of the original image manually, and recording a parameterized processing procedure as a new template, the new template is stored in the face-adjusting template database; nor does Giacchetti teach the original face image obtained by the image-reading unit is selectively adjusted one of the template selection unit and the manual adjusting unit.

The secondary reference to Tian et al. teaches a method for automatically detecting neutral expressionless faces and is cited for teaching an assortment of facial expression variations and animated comic effect.

Tian et al. do not teach a manual adjusting unit adjusting the facial characteristic of the original image manually, and recording a parameterized processing procedure as a new template, the new template is stored in the face-adjusting template database; nor do Tian et al. teach the original face image obtained by the image-reading unit is selectively adjusted one of the template selection unit and the manual adjusting unit.

Even if the teachings of Lobo et al., Giacchetti, and Tian et al. were combined, as suggested by the Examiner, the resultant combination does not suggest: a manual adjusting unit adjusting the facial characteristic of the original image manually, and recording a parameterized processing procedure as a new template, the new template is stored in the face-adjusting template database; nor does the combination suggest the original face image obtained by the image-reading unit is selectively adjusted one of the template selection unit and the manual adjusting unit.

It is a basic principle of U.S. patent law that it is improper to arbitrarily pick and choose prior art patents and combine selected portions of the selected patents on the basis of Applicant's disclosure to create a hypothetical combination which allegedly renders a claim obvious, unless there is some direction in the selected prior art patents to combine the selected teachings in a manner so as to negate the patentability of the claimed subject matter. This principle was enunciated over

40 years ago by the Court of Customs and Patent Appeals in In re Rothermel and Waddell, 125 USPQ 328 (CCPA 1960) wherein the court stated, at page 331:

> The examiner and the board in rejecting the appealed claims did so by what appears to us to be a piecemeal reconstruction of the prior art patents in the light of appellants' disclosure. ... It is easy now to attribute to this prior art the knowledge which was first made available by appellants and then to assume that it would have been obvious to one having the ordinary skill in the art to make these suggested reconstructions. While such a reconstruction of the art may be an alluring way to rationalize a rejection of the claims, it is not the type of rejection which the statute authorizes.

The same conclusion was later reached by the Court of Appeals for the Federal Circuit in Orthopedic Equipment Company Inc. v. United States, 217 USPQ 193 (Fed.Cir. 1983). In that decision, the court stated, at page 199:

> As has been previously explained, the available art shows each of the elements of the claims in suit. Armed with this information, would it then be non-obvious to this person of ordinary skill in the art to coordinate these elements in the same manner as the claims in suit? The difficulty which attaches to all honest attempts to answer this question can be attributed to the strong temptation to rely on hindsight while undertaking this evaluation. It is wrong to use the patent in suit as a guide through the maze of prior art references, combining the right references in the right way so as to achieve the result of the claims in suit. Monday morning quarterbacking is quite improper when resolving the question of non-obviousness in a court of law.

In In re Geiger, 2 USPQ2d, 1276 (Fed.Cir. 1987) the court stated, at page 1278:

> We agree with appellant that the PTO has failed to establish a *prima facie* case of obviousness. Obviousness cannot be established by combining the teachings of the prior art to produce the claimed

invention, absent some teaching suggestion or incentive supporting the combination.

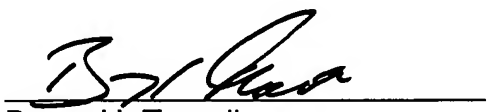
Applicant submits that there is not the slightest suggestion in either Lobo et al., Giacchetti, or Tian et al. that their respective teachings may be combined as suggested by the Examiner. Case law is clear that, absent any such teaching or suggestion in the prior art, such a combination cannot be made under 35 U.S.C. § 103.

Neither Lobo et al., Giacchetti, nor Tian et al. disclose, or suggest a modification of their specifically disclosed structures that would lead one having ordinary skill in the art to arrive at Applicant's claimed structure. Applicant hereby respectfully submits that no combination of the cited prior art renders obvious Applicant's new claims.

Summary

In view of the foregoing amendments and remarks, Applicant submits that this application is now in condition for allowance and such action is respectfully requested. Should any points remain in issue, which the Examiner feels could best be resolved by either a personal or a telephone interview, it is urged that Applicant's local attorney be contacted at the exchange listed below.

Respectfully submitted,

Date: May 25, 2005 By: 

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